

SIXTY-FIRST DAY

TUESDAY, MAY 3, 2005

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Stephen Warren, First Baptist Church, Buda, offered the invocation as follows:

Our heavenly Father, we come before You acknowledging You as our God and creator. We come before You in humility and reverence, asking that You hear our petitions of this prayer. We recognize You as our God and the giver of life. We humbly request that You watch over the men and women who are now serving in defense of our country, that we might continue to have this freedom. Please be with the families that wait on their return and give them Your peace, and we ask that You give the comfort of Your holy spirit to those who have lost loved ones in this great fight. Lord, be with our leaders as they seek to lead our nation and our state. Give them the wisdom to lead in a way that is pleasing to You. Continue to bless our state, and we ask that You forgive us when we fail You. Lord, watch over us, lead us, and guide us that we might bring honor and glory to You. In Your precious name we pray. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 1228

On motion of Senator Shapiro, Senator Zaffirini will be shown as Co-author of **SB 1228**.

CO-SPONSOR OF HOUSE BILL 225

On motion of Senator Deuell, Senator Hinojosa will be shown as Co-sponsor of **HB 225**.

RESOLUTIONS SIGNED

The President announced the signing of the following enrolled resolutions in the presence of the Senate: **HCR 136, HCR 148**.

PHYSICIAN OF THE DAY

Senator Hinojosa was recognized and presented Dr. Ricky Dale Edwards of Corpus Christi as the Physician of the Day.

The Senate welcomed Dr. Edwards and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

SENATE BILL 481 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 481** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 481** (Senate engrossment) as follows:

(1) On page 1, line 16, between "the person" and "knowingly", insert ", with the intent to record a motion picture,".

(2) On page 1, line 18, strike "a motion picture" and substitute "the motion picture".

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 481**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(Senator Wentworth in Chair)

SENATE RESOLUTION 721

Senator Armbrister offered the following resolution:

WHEREAS, The Texas Environmental Excellence Awards are being presented May 3, 2005, and this auspicious occasion provides a fitting opportunity to recognize the proud recipients of these prestigious accolades for their dedicated efforts to protect and conserve our state's natural resources; and

WHEREAS, Nominated by a blue ribbon committee and selected by the Office of the Governor and the commissioners of the Texas Commission on Environmental Quality, these award-winning Texans involved in small and large businesses, government, and individual citizenship have voluntarily endeavored to preserve our state's natural resources by preventing pollution, minimizing waste, conserving water, reducing energy consumption, and protecting wildlife; and

WHEREAS, The 2005 Texas Environmental Excellence Awards recipients are Cargill Meat Solutions Corporation, IdleAire Technologies Corporation, H-E-B Grocery Company, University of Texas Medical Branch, EnvirGLAS Products, Inc., Tom Green County Water Control & Improvement District No. 1, City of Laredo, Clear Creek Environmental Foundation, Highland Lakes Elementary School, and Hannah Marie Greer; and

WHEREAS, These winners also share their knowledge, technology, and expertise to educate Texans as to how they may protect the environment in their communities, and their leadership will prove vital in preserving our state's natural resources for future generations; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby recognize May 3, 2005, as Texas Environmental Excellence Awards Day at the State Capitol and commend the award recipients for their exemplary efforts on behalf of the Lone Star State; and, be it further

RESOLVED, That a copy of this Resolution be prepared for each winner as an expression of high regard from the Texas Senate.

SR 721 was read and was adopted without objection.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate recipients of the Texas Environmental Excellence Award: Hannah Marie Greer of Van Alstyne Independent School District Recycles! and Aubrey Moore, Carmen Flores, Sorren Owen, and Jesus Perez of Highland Lakes Elementary School Project LIFE.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

CONCLUSION OF MORNING CALL

The Presiding Officer at 11:24 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 386 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 386** at this time on its third reading and final passage:

CSSB 386, Relating to the ability of public school employees to communicate with members of a school district board of trustees.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Janek was recognized and introduced to the Senate a group of students from YES College Preparatory School in Houston.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 1228 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1228** at this time on its second reading:

CSSB 1228, Relating to a statewide assessment and accountability system for public institutions of higher education and to an annual analysis and report by the Texas Higher Education Coordinating Board regarding financial information submitted by those institutions.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1228** (Senate committee printing) in SECTION 1 of the bill, in proposed Subdivision (2), Subsection (a), Section 61.9751, Education Code (page 1, line 30), between "awarded" and the semicolon, by inserting ", retention rates, and graduation rates".

The amendment to **CSSB 1228** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1228** on page 4, between lines 7 and 8, by inserting a new Section 4 to read as follows and renumber the subsequent sections appropriately:

"SECTION 4. (a) Section 54.0513, Education Code is repealed.

(b) this Section takes effect September 1, 2008."

The amendment was read.

Senator Shapiro moved to table Floor Amendment No. 2.

The motion was lost by the following vote: Yeas 14, Nays 17.

Yeas: Armbrister, Averitt, Carona, Duncan, Eltife, Estes, Fraser, Hinojosa, Jackson, Janek, Lindsay, Seliger, Shapiro, Zaffirini.

Nays: Barrientos, Brimer, Deuell, Ellis, Gallegos, Harris, Lucio, Madla, Nelson, Ogden, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams.

Senator Shapiro moved to postpone further consideration of the bill to a day certain of Tuesday, May 10, 2005.

The motion prevailed.

Question — Shall Floor Amendment No. 2 to **CSSB 1228** be adopted?

SENATE BILL 244 ON THIRD READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time **SB 244** on its third reading and final passage:

SB 244, Relating to priority of payment relating to property owners' association assessments.

The bill was read third time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **SB 244** (committee printing), in SECTION 1 of the bill, in amended Section 209.009(b), Property Code, as follows:

(1) On page 1, lines 20-21, strike "writing by the property owner" and substitute "a dedicatory instrument".

(2) On page 1, line 26, strike "and".

(3) On page 1, line 28, between "association" and the period, insert the following:

; and

(5) any other amount due to the association

(4) On page 1, between lines 28 and 29, insert the following:

(c) For purposes of this section, the governing body of a property owners' association may adopt reasonable rules for the association.

The amendment was read.

Senator Wentworth moved to table Floor Amendment No. 1 on Third Reading.

Senator Wentworth withdrew the motion to table Floor Amendment No. 1 on Third Reading.

Question recurring on the adoption of Floor Amendment No. 1 on Third Reading to **SB 244**, the amendment failed of adoption by the following vote: Yeas 5, Nays 26.

Yeas: Carona, Gallegos, Lucio, Seliger, Zaffirini.

Nays: Armbrister, Averitt, Barrientos, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **SB 244**, in SECTION 1 of the bill, in Section 209.009, Property Code (committee printing page 1, between lines 28 and 29) by adding a new Subsection (c) to read as follows:

(c) Subsection (b) does not apply to a payment received by a property owners' association if:

(1) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 3.3 million or more or in a county adjacent to a county with a population of 3.3 million or more;

(2) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(3) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution.

The amendment to **SB 244** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 on Third Reading.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 244 as amended was finally passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1272 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1272** at this time on its second reading:

CSSB 1272, Relating to providing a uniform limit on the population of a county election precinct.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1272** as follows:

(1) In the recital to SECTION 1 of the bill (committee printing page 1, lines 13-14), strike "Subsection (a), Section 42.006, Election Code, is amended" and substitute "Section 42.006, Election Code, is amended by amending Subsection (a) and adding Subsection (f)".

(2) In SECTION 1 of the bill, add the following Subsection (f) to Section 42.006, Election Code (committee printing page 1, between lines 17 and 18), "(f) In a county with a population of 175,000 or more, a county election precinct may not be drawn that requires a registered voter to drive more than 25 miles from the location at which the voter is registered to vote to the location of the precinct polling place.".

The amendment to **CSSB 1272** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1272 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1272 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1272** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1272**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1272** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1370 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1370** at this time on its second reading:

CSSB 1370, Relating to the disposition of certain tax revenue for the protection and development of grape and wine production.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1370** (committee printing) as follows:

(1) In added Section 205.03, Alcoholic Beverage Code (page 3, between lines 16 and 17), insert a new Subsection (o) to read as follows:

(o) The comptroller shall provide the Department of Agriculture information necessary to allow the department to identify the amount of revenue appropriated to the department that is derived under Subsection (b)(1) and the amount of that revenue that is derived under Subsection (b)(2) so that the department may distribute the revenue in accordance with this section.

(2) In added Section 205.03, Alcoholic Beverage Code, redesignate existing Subsection (o) as Subsection (p) (page 3, line 17).

The amendment to **CSSB 1370** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1370 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1370 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1370** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1370**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1370** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 408 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 408** at this time on its second reading:

CSSB 408, Relating to the continuation and functions of the Public Utility Commission of Texas, including regulation of certain utilities with delayed customer choice; providing a penalty.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 408** (Senate committee report) by striking SECTION 11 (page 6, beginning on line 35 through page 9, ending on line 12) and re-number existing SECTIONS accordingly.

The amendment to **CSSB 408** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 408 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 408 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 408** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 408**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 408** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 826 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 826** at this time on its second reading:

CSSB 826, Relating to a cost-benefit analysis of providing mental health services for women with postpartum depression.

The motion prevailed.

Senator Staples asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Staples.

**COMMITTEE SUBSTITUTE
SENATE BILL 826 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 826** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Staples, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 826**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 826** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Staples.

(President in Chair)**COMMITTEE SUBSTITUTE
SENATE BILL 49 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 49** at this time on its second reading:

CSSB 49, Relating to the electronic submission of certain health care transactions.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 49 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 49** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 49**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 49** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1246 ON SECOND READING

On motion of Senator Brimer and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1246** at this time on its second reading:

SB 1246, Relating to local option elections in certain populous areas on the sale of mixed beverages by food and beverage establishments.

The bill was read second time.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 1

Amend the filed version of **SB 1246**, as follows:

- (1) On page 1, line 10, strike "and less than 3.4 million".
- (2) On page 1, line 12, strike "and less than 3.4 million".

The amendment to **SB 1246** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Brimer and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1246 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 1246 ON THIRD READING

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1246** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1246**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1246** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1304 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1304** at this time on its second reading:

CSSB 1304, Relating to projects that may be undertaken by certain development corporations with respect to business enterprises or business development.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1304** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in proposed Section 4B(a)(3), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), between "less" and the comma (page 1, line 50), insert "or by an eligible city that is a land-locked community".

(2) In SECTION 2 of the bill, at the end of proposed Section 4B(a)(3), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (page 1, line 53), insert the following:

"In this subdivision, "land-locked community" means a city that has within its city limits and extraterritorial jurisdiction less than 500 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city."

The amendment to **CSSB 1304** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1304 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1304 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1304** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1304**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1304** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Armbrister in Chair)**SENATE BILL 1578 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **SB 1578** at this time on its second reading:

SB 1578, Relating to jurisdiction and venue in condemnation proceedings.

The motion prevailed.

Senator Gallegos asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Gallegos.

SENATE BILL 1578 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1578** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Gallegos, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1578**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1578** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Gallegos.

**COMMITTEE SUBSTITUTE
SENATE BILL 447 ON THIRD READING**

Senator Janek moved to suspend the regular order of business to take up for consideration **CSSB 447** at this time on its third reading and final passage:

CSSB 447, Relating to the sale of tax receivables by a local government.

The motion prevailed.

Senators Ogden, Shapleigh, Wentworth, and Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Nelson, Seliger, Shapiro, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Ogden, Shapleigh, Wentworth, Williams.

Absent: Jackson.

SENATE BILL 395 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 395** at this time on its second reading:

SB 395, Relating to the submission of certain pleas and waivers by closed circuit video teleconferencing.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 395** in Section 1 of the bill as follows:

(1) In the introductory language for Section 1 of the bill (committee printing, page 1, line 12), between "(e)," and "and", insert "(e-1),".

(2) At the end of proposed Subsection (e), Article 27.18, Code of Criminal Procedure (committee printing, page 1, line 21), add the following:

(e-1) Subsection (e) does not prohibit a court from granting a defendant's motion for change of venue during the trial of the defendant.

The amendment to **SB 395** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 395 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 395 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 395** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 395**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 395** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2814 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2814** at this time on its second reading:

HB 2814, Relating to the powers and duties of the Sweeny Hospital District.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2814** in Section 5 of the bill, in amended Section 7, Chapter 135, Acts of the 58th Legislature, Regular Session, 1963 (committee printing, page 4, line 60, through page 5, line 7), by striking proposed Subsection (d) and substituting the following:

(d) The board of directors may spend district funds, enter into agreements, and take other necessary action to recruit physicians as independent contractors to serve as medical staff members and to recruit other persons to serve as employees of the district, including:

(1) advertising and marketing;

(2) paying travel, recruitment, and relocation expenses;

(3) providing a loan or scholarship to:

(A) a physician currently enrolled in health care education courses at an institution of higher education who contractually agrees to serve as an independent contractor on the medical staff of the district; or

(B) a person, other than a physician, currently enrolled in health care education courses at an institution of higher education who contractually agrees to become a district employee;

(4) contracting with one or more full-time medical students each of whom must be enrolled and in good standing at an accredited medical school, college, or university, to pay the student's tuition or other expenses in consideration of the student's agreement to serve as an independent contractor on the medical staff of the district; or

(5) contracting with one or more full-time students, other than medical students, in a health occupation each of whom must be enrolled and in good standing at an accredited medical school, college, or university, to pay the student's tuition or other expenses in consideration of the student's agreement to serve as an employee or independent contractor for the district.

The amendment to **HB 2814** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2814 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2814 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2814** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **HB 2814**, because in my judgment no circumstance exists in this case to justify the

extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **HB 2814** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 729 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 729** at this time on its second reading:

HB 729, Relating to an order by a court that a judgment debtor turn over certain property for the satisfaction of the judgment.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 729 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 729** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **HB 729**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **HB 729** would have occurred on the next legislative day, allowing for Texans to have learned through

news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Brimer in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1170 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1170** at this time on its second reading:

CSSB 1170, Relating to the regulation of gas production by the Railroad Commission of Texas.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1170 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1170**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1170** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 1175 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1175** at this time on its second reading:

CSSB 1175, Relating to the regulation of oil and gas production by the Railroad Commission of Texas.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1175 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1175** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1175**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1175** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE JOINT RESOLUTION 3 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **SJR 3** at this time on its second reading:

SJR 3, Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board.

The resolution was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE JOINT RESOLUTION 3 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 3** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SJR 3**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SJR 3** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE JOINT RESOLUTION 27 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **SJR 27** at this time on its second reading:

SJR 27, Proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board to provide assistance to economically distressed areas.

The motion prevailed.

Senators Estes, Fraser, Nelson, and Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The resolution was read second time.

Senator Lucio offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **SJR 27** (committee printing), in Subsection (a) of added Section 49-d-10, Article III, Texas Constitution (page 1, line 17), by striking "500" and substituting "785".

The amendment to **SJR 27** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

SJR 27 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Estes, Fraser, Harris, Nelson, Ogden.

SENATE JOINT RESOLUTION 27 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SJR 27** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Nelson, Ogden, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SJR 27**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has

already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SJR 27** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The resolution was read third time and was passed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Nelson, Ogden.

COMMITTEE SUBSTITUTE SENATE BILL 964 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSSB 964** at this time on its second reading:

CSSB 964, Relating to the authorization, administration, and funding of the program to provide financial assistance for the construction, acquisition, or improvement of water supply and sewer services for economically distressed areas.

The motion prevailed.

Senators Estes, Fraser, Nelson, and Ogden asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 964** (committee printing) as follows:

(1) Strike SECTIONS 4 and 5 and substitute the following:

SECTION 4. Section 16.341, Water Code is amended by amending Subdivisions (1) and (2) to read as follows:

(1) "Affected county" means a county[=

~~(A)] that has an economically distressed area which has a median household income that is not greater than 75 percent of the median state household income [a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; or~~

~~(B) that is adjacent to an international border].~~

(2) "Economically distressed area" has the meaning assigned by Section 17.921 [means an area in which:

~~[(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;~~

~~[(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and~~

~~[(C) an established residential subdivision was located on June 1, 1989, as determined by the board].~~

SECTION 5. Subsections (b) and (c) of Section 16.343, Water Code, are amended to read as follows:

(b) The model rules must:

(1) assure that adequate drinking water is available to the residential areas in accordance with Chapter 341, Health and Safety Code, and the Rules and Regulations for Public Water Systems and the Drinking Water Standards Governing Water Quality and Reporting Requirements for Public Water Supply Systems adopted by the commission ~~[Texas Board of Health]~~ and other law and rules applicable to drinking water; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005 ~~[1989]~~.

(c) The model rules must:

(1) assure that adequate sewer facilities are available to the residential areas through either septic tanks or an organized sewage disposal system that is a publicly or privately owned system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a valid waste discharge permit issued by the commission or private sewage facilities in accordance with Chapter 366, Health and Safety Code, and the Construction Standards for On-Site Sewerage Facilities adopted by the commission and other law and rules applicable to sewage facilities; and

(2) provide criteria applicable to tracts that were divided into two or more parts to lay out a subdivision and were not platted or recorded before September 1, 2005 ~~[1989]~~.

(2) Strike SECTIONS 8 and 9 and substitute the following:

SECTION 8. Section 17.921, Water Code is amended by amending subdivision (1) and adding subdivision (6) to read as follows:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005 ~~[1989]~~, as determined by the board.

(6) "Economically distressed areas account" means the economically distressed areas account in the Texas Water Development Fund or the economically distressed areas program account in the Texas Water Development Fund II.

SECTION 9. Section 17.922(b), Water Code, is amended to read as follows:

(b) To the extent practicable, the board shall use the funds in the economically distressed areas account in conjunction with the other financial assistance available through the board to encourage the use of cost-effective water supply and wastewater systems, including regional systems, to maximize the long-term economic development of counties eligible for financial assistance under the economically distressed areas program. Any savings derived from the construction of a regional system that includes or serves an economically distressed area project shall be factored into the board's determination of financial assistance for the economically distressed area in a manner that assures the economically distressed area receives appropriate benefits from the savings. In no event shall financial assistance provided from the economically distressed areas account be used to provide water supply or wastewater service to any area that is not ~~[defined as]~~ an economically distressed area ~~[pursuant to Section 17.921(1)(A) of this code].~~

(3) Strike SECTION 14 of the bill.

(4) Strike SECTION 15 of the bill and substitute the following:

SECTION 15. Section 17.952, Water Code, is amended to read as follows:

Sec. 17.952. ISSUANCE OF WATER FINANCIAL ASSISTANCE BONDS.

The board by resolution may provide for the issuance of water financial assistance bonds, which shall be general obligation bonds of the state, in an aggregate principal amount not to exceed the principal amount authorized to be issued by ~~[Section 49 d 8, Article III,]~~ the Texas Constitution.

(5) Adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION ____ . Section 212.0105, Local Government Code, is amended to read as follows:

Sec. 212.0105. WATER AND SEWER REQUIREMENTS IN CERTAIN COUNTIES. (a) This section applies only to a person who:

(1) is the owner of a tract of land in ~~[either:~~

~~(A) a county that is contiguous to an international border; or~~

~~(B)] a county in which a political subdivision that is eligible for and has applied for [has received]~~ financial assistance through Subchapter K, Chapter 17, Water Code;

(2) divides the tract in a manner that creates any lots that are intended for residential purposes and are five acres or less; and

(3) is required under this subchapter to have a plat prepared for the subdivision.

The amendment to **CSSB 964** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 964** (committee printing) by striking SECTIONS 2, 3, 7 and 20 and renumbering the remaining SECTIONS appropriately.

The amendment to **CSSB 964** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 964 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Estes, Fraser, Harris, Nelson, Ogden.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 964 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 964** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Nelson, Ogden, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 964**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 964** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Fraser, Harris, Nelson, Ogden.

COMMITTEE SUBSTITUTE
SENATE BILL 1190 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1190** at this time on its second reading:

CSSB 1190, Relating to certain procedures governing health care liability claims.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 1500 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **SB 1500** at this time on its second reading:

SB 1500, Relating to the allocation of federal funds directed to be used to support graduate medical education in connection with the state Medicaid program.

The motion prevailed.

Senators Brimer, Nelson, Ogden, Staples, and Wentworth asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1500** (committee printing) by striking SECTION 1 of the bill (page 1, lines 13-52) and substituting the following:

SECTION 1. Section 32.0315, Human Resources Code, is amended by amending Subsection (b) to read as follows:

(b) The department shall allocate the funds in the manner the department determines most effectively and equitably achieves the purposes for which those federal funds are received, consistent with the needs of this state for graduate medical education and the training of resident physicians in accredited residency programs in appropriate fields and specialties, taking into account other money available to support graduate medical education. In determining the needs of this state for graduate medical education, the department shall give primary emphasis to graduate medical education in primary care specialties and shall also recognize the growth in residency training slots since 1997 in the Lower Rio Grande Valley and other health care shortage areas of this state.

The amendment to **SB 1500** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1500 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Nelson, Ogden, Wentworth.

SENATE BILL 1500 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1500** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Ogden, Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1500**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1500** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Ogden.

**VOTE RECONSIDERED ON
COMMITTEE SUBSTITUTE SENATE BILL 1228**

On motion of Senator Armbrister and by unanimous consent, the vote by which further consideration of **CSSB 1228** was postponed to a day certain of Tuesday, May 10, 2005, was reconsidered.

Question — Shall further consideration of **CSSB 1228** be postponed?

Senator Shapiro withdrew the motion to postpone further consideration.

Question — Shall Floor Amendment No. 2 to **CSSB 1228** be adopted?

Senator Ellis withdrew Floor Amendment No. 2.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1228** on page 4, between lines 7 and 8, by inserting a new Section 4 to read as follows and renumber the subsequent sections appropriately:

"SECTION 4. (a) The Legislative Oversight Committee shall review tuition deregulation and make recommendations to the 80th Legislature for its continuation or repeal. The report shall be submitted by January 1, 2007 to the Legislature.

(b) Section 54.0513, Education Code shall be repealed on September 1, 2008 unless the Legislature passes legislation to continue its existence."

The amendment to **CSSB 1228** was read and was adopted by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Estes, Janek, Zaffirini.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1228 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1228 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1228** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Wentworth.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1228**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1228** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider the following bills today:

SB 1120, SB 1194, SB 1248, SB 1544, SB 1844, HB 25.

SENATE RULES SUSPENDED (Posting Rules)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider the following bills today:

SB 452, HB 1015, HB 1155, HB 1820, HB 2274, HB 2377, HB 2379.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting today.

**SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)**

On motion of Senator Carona and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Subcommittee on Emerging Technologies and Economic Development might consider **HB 1734** today.

**SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)**

On motion of Senator Madla and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Intergovernmental Relations might consider **SB 1877** tomorrow.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Staples and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills tomorrow: **SB 921, SB 1251**.

**SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)**

On motion of Senator Lindsay and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Nominations might meet today.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator West and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Higher Education might meet and consider the following bills today:

SB 817, SB 1452, SB 1809, SB 1883, HB 479.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 3:25 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 11:00 a.m. tomorrow.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

- HB 161** to Committee on Finance.
- HB 261** to Committee on Jurisprudence.
- HB 312** to Committee on Finance.
- HB 381** to Subcommittee on Higher Education.
- HB 505** to Committee on Natural Resources.
- HB 525** to Committee on Intergovernmental Relations.
- HB 616** to Committee on State Affairs.
- HB 703** to Committee on Criminal Justice.

HB 788 to Committee on Jurisprudence.
HB 831 to Committee on State Affairs.
HB 841 to Committee on Natural Resources.
HB 868 to Subcommittee on Higher Education.
HB 877 to Committee on Health and Human Services.
HB 920 to Committee on Health and Human Services.
HB 989 to Committee on Business and Commerce.
HB 1118 to Committee on Criminal Justice.
HB 1244 to Committee on Transportation and Homeland Security.
HB 1248 to Committee on Intergovernmental Relations.
HB 1255 to Committee on Criminal Justice.
HB 1274 to Subcommittee on Higher Education.
HB 1345 to Committee on Intergovernmental Relations.
HB 1391 to Committee on Business and Commerce.
HB 1398 to Committee on Finance.
HB 1403 to Committee on Intergovernmental Relations.
HB 1409 to Subcommittee on Higher Education.
HB 1455 to Committee on Intergovernmental Relations.
HB 1458 to Committee on Business and Commerce.
HB 1508 to Committee on State Affairs.
HB 1589 to Committee on Criminal Justice.
HB 1606 to Committee on Intergovernmental Relations.
HB 1647 to Committee on State Affairs.
HB 1653 to Committee on Criminal Justice.
HB 1659 to Subcommittee on Emerging Technologies and Economic Development.
HB 1800 to Committee on State Affairs.
HB 1893 to Committee on Business and Commerce.
HB 1997 to Committee on Jurisprudence.
HB 2025 to Committee on Government Organization.
HB 2027 to Committee on Natural Resources.
HB 2037 to Committee on Natural Resources.
HB 2045 to Committee on Natural Resources.
HB 2068 to Committee on State Affairs.
HB 2069 to Committee on State Affairs.
HB 2071 to Committee on Transportation and Homeland Security.
HB 2200 to Committee on Jurisprudence.
HB 2202 to Committee on State Affairs.
HB 2223 to Committee on Business and Commerce.
HB 2243 to Committee on Business and Commerce.
HB 2257 to Committee on Transportation and Homeland Security.
HB 2266 to Committee on Business and Commerce.
HB 2293 to Committee on Criminal Justice.
HB 2322 to Committee on State Affairs.
HB 2335 to Subcommittee on Base Realignment and Closure.
HB 2348 to Committee on Transportation and Homeland Security.
HB 2374 to Committee on Intergovernmental Relations.

HB 2414 to Committee on Jurisprudence.
HB 2466 to Committee on Government Organization.
HB 2491 to Committee on Intergovernmental Relations.
HB 2511 to Committee on State Affairs.
HB 2518 to Committee on Jurisprudence.
HB 2574 to Committee on Criminal Justice.
HB 2622 to Committee on Natural Resources.
HB 2656 to Committee on Transportation and Homeland Security.
HB 2671 to Committee on Jurisprudence.
HB 2677 to Committee on Criminal Justice.
HB 2685 to Committee on Natural Resources.
HB 2746 to Committee on Business and Commerce.
HB 2806 to Subcommittee on Higher Education.
HB 2807 to Committee on Education.
HB 2828 to Subcommittee on Agriculture and Coastal Resources.
HB 2900 to Committee on Administration.
HB 2918 to Committee on State Affairs.
HB 2928 to Subcommittee on Emerging Technologies and Economic Development.
HB 2942 to Committee on Natural Resources.
HB 3113 to Committee on Veteran Affairs and Military Installations.
HB 3163 to Committee on Veteran Affairs and Military Installations.
HB 3227 to Committee on Government Organization.
HB 3262 to Committee on Intergovernmental Relations.
HB 3263 to Committee on Jurisprudence.
HB 3469 to Committee on Natural Resources.
HB 3485 to Committee on Jurisprudence.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 742 by Duncan, In memory of Jeff Brown of San Angelo.

Congratulatory Resolutions

SR 737 by Ellis, Recognizing the Houston Chapter of Top Ladies of Distinction, Incorporated, on the occasion of its 40th Founders' Day.

SR 738 by Whitmire, Commending Cecil Whitley for her contributions to the educational system of Houston.

SR 740 by Shapiro, Commending Angela J. Ingels for her contributions to her community.

SR 743 by Ellis, Recognizing the women who have been members of the Senate Ladies Club for 50 years or more.

Official Designation Resolution

SR 739 by Gallegos, Recognizing May 5, 2005, as the 54th National Day of Prayer.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 3:31 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 3, 2005

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 696, CSSB 859, HB 87, CSHB 749**

STATE AFFAIRS — **HB 633, HB 735, HB 854, HB 964, CSSB 309**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSSB 1105**

NATURAL RESOURCES — **CSHB 86, CSHB 340, HB 380, CSSB 1166, CSSB 1857, SB 1858**

INTERGOVERNMENTAL RELATIONS — **CSSB 57, CSSB 356, CSSB 430, CSSB 841, CSSB 1296, CSSB 1463, CSSB 1836**

NATURAL RESOURCES — **CSSB 1451, HB 2032**

CRIMINAL JUSTICE — **CSSB 1266**

NATURAL RESOURCES — **CSSB 344, CSSB 1366**

ADMINISTRATION — **SB 1140**

